Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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<u>Ex parte</u> JERRY W. MALCOLM

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Appeal No. 2001-1934
Application 08/977,749

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ON BRIEF

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Before THOMAS, HAIRSTON, and BLANKENSHIP, <u>Administrative Patent
Judges</u>.

THOMAS, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

Appellant has appealed to the Board from the examiner's

final rejection of claims 1-21. Representative claim 1 is

reproduced below:

1. A method for generating test pages for an object
oriented program on a web server comprising the steps of:

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analyzing a data structure for a plurality of request and response objects to identify a set of data fields within the data structure;

retrieving rule data from a rule database for property naming rules governing selection of property names assigned to each data field within the set of data fields; and

generating a test page for each request or response object associated with the data structure, the test pages each including an instance of the respective object and a set of property names and associated data names for the respective object.

The following references are relied on by the examiner:

Nilsson et al. (Nilsson)   5,555,418   Sep. 10, 1996
Kolawa et al. (Kolawa)   5,784,553   July 21, 1998
                               (filing date Apr. 30, 1997)

Ghiassi et al. (Ghiassi), "An integrated software testing system based on an object-oriented DBMS," System Sciences, Vol. 2, ppg. 101-109 (Jan. 1992).

All claims on appeal, claims 1-21, stand rejected under

35 U.S.C. § 103. In an initially stated rejection of claims 1-3,

8-10 and 15-17, the examiner relies upon Kolawa alone. To this

rejection the examiner additionally relies upon Ghiassi as to

claims 4, 5, 11, 12, 18, 19. In the third stated rejection, the

examiner considers claims 6, 7, 13, 14, 20 and 21 obvious over

Kolawa in view of Nilsson.

Rather than repeat the positions of the appellant and the

examiner, reference is made to the brief and answer for the

respective details thereof.

OPINION

We reverse.

The principal basis appellant urges to reverse the rejection of representative independent claim 1 on appeal is the failure of Kolawa to teach or suggest the feature of the second clause of representative claim 1 on appeal, that of "retrieving rule data from a rule database for property naming rules governing selection of property names assigned to each data field within the set of data fields." A secondary argument depends upon this argument/feature of representative claim 1 on appeal by additionally arguing the generating feature in the third clause of representative claim 1 is not taught or suggested as well, principally because of the dependent recitation of the property names feature on the second clause of representative claim 1 on appeal. Thus, we are in general agreement with appellant's urgings at pages 7-10 of the brief on appeal.

We have studied the locations noted by the examiner alleging a correspondence to the property naming rules database but come to the same conclusion as urged by appellant at the bottom of page 8 of the brief that "*Kolawa et al* does not suggest that the symbolic memory values and symbolic expressions are determined

from a rule database containing rules for assigning symbolic

expression to program variables." The various figures build upon

each other such as Figures 1, 2A, 5, 7, 9, 11-13, 16, 17, 19 and

21 to the extent they relate to the disputed features recited in

representative claim 1 on appeal.

Kolawa's test generation system 10 in Figure 1 is shown in

more detail in Figure 2A, with its program driver 26 being

depicted in Figure 5. The input generation module 43 in Figure 5

is depicted in more detail in Figure 7 which shows the existence

of a Heuristics module 74 (it is Figure 7 which is shown on the

front page of Kolawa's patent). Appellant makes reference in his

arguments to the Heuristics module. It is stated in the

paragraph bridging columns 9 and 10 that this module contains a

set of rules that can be evoked by the random input generation

module 71 to generate random inputs. There is no teaching or

suggestion according to this location and the showing in Figure 7

and its reference in various later figures that such a set of

rules within the Heuristics module 74 relates to property naming

rules as recited in independent claim 1 on appeal. We therefore

are in general agreement with appellant's observations at pages 8

and 9 of the brief that these rules are not utilized to

essentially "name" or otherwise generate symbolic memory values

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or symbolic expressions for the program input variables and
program statements as claimed.

On the other hand, we are mindful of the examiner's
positions at pages 11-13 of the answer, but we are unpersuaded by
them. It is problematic to us in the statement of the examiner
in the sentence bridging pages 11-12 of the answer that "[s]ince
it is known in the data structure art that most variables and
structures can be identified by names assigned to them, the
selection of variables and translation of structures as taught by
Kolawa involve the manipulation of names as well." Additionally,
the paragraph bridging pages 12 and 13 indicates the examiner's
view that "[a]lthough Kolawa's Heuristic rules are concentrated
toward selection of inputs sets, the rule base is part of the
module which includes the indexing of the symbolic data,
including the data selected using said rules, for the purpose of
program execution." These views of the examiner appear to be
based upon conjecture or strained inferences which we are unable
to agree with. Although we recognize these views of the examiner
may have some merit in the art, they go well beyond the level and
quality of evidence provided in Kolawa alone to support the
conclusion asserted by the examiner that the recited feature of
property naming rules was taught by, suggested by, or otherwise

found in or inherent in Kolawa alone. Additional evidence is
lacking to make up for the deficiencies of Kolawa alone as to the
disputed features. The examiner's reference to the data
structures that may be resident in symbolic memory 112, shown in
Figure 12 as part of the symbolic execution module broadly
depicted in Figure 11, also does not support the examiner's views
as to the principal issue on appeal.

Since independent system claim 8 and independent product
claim 15 have features which correspond to those noted earlier
with respect to the method independent claim 1 on appeal, the
rejection of them must be reversed as well. Correspondingly, the

rejections of the respective dependent claims must also be

reversed. Therefore, the decision of the examiner rejecting

claims 1-21 under 35 U.S.C. § 103 is reversed.

<u>REVERSED</u>

James D. Thomas Administrative Patent Judge	)	
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	)	
Kenneth W. Hairston Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
	)	
	)	
Howard B. Blankenship Administrative Patent Judge	)	

JDT/cam

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